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9 *Attorney for Plaintiffs*

10 **UNITED STATES DISTRICT COURT**  
11 **DISTRICT OF NEVADA**

12 ELISEO NAPOLES, MARIA NAPOLES  
13 AND M.N., A MINOR, BY AND  
14 THROUGH HIS GUARDIAN AD LITEM,

15 Plaintiffs,

16 vs.

17 CLARK COUNTY SCHOOL DISTRICT,  
18 DOES I through X, inclusive; ROE  
19 CORPORATIONS I through X, inclusive

20 Defendant.

CASE NO: 2:19-cv-01474-APG-BNW

**PLAINTIFFS' MOTION TO APPOINT  
ELISEO NAPOLES AND MARIA  
NAPOLES AS GUARDIANS AD LITEM  
FOR MINOR PLAINTIFF M.N.**

21 COME NOW, Plaintiffs, ELISEO NAPOLES, MARIA NAPOLES AND M.N., A  
22 MINOR (hereinafter, "Plaintiffs"), by and through their counsel, the law firm of Hatfield &  
23 Associates, Ltd., and respectfully submit this Motion to Appoint Eliseo Napoles and Maria  
24 Napoles as Guardians Ad Litem for Plaintiff M.N., a Minor.

25 Eliseo Napoles is the father of Plaintiff M.N., a minor currently fifteen (15) years old.

26 Maria Napoles is the mother of Plaintiff M.N., a minor currently fifteen (15) years old.

27 M.N. has commenced an action in this court against Defendant Clark County School  
28 District for violation of his rights under the Fourth Amendment to the United States Constitution,  
Violation of Title II of the Americans with Disabilities Act (as amended), Violation of the

1 Rehabilitation Act of 1973, and several torts under state law. At the time of the incident, M.N.  
2 was twelve (12) years old.

3 M.N. has no general guardian and no previous petition for appointment of a guardian ad  
4 litem has been filed in this matter. Eliseo Napoles and Maria Napoles are M.N.'s natural parents  
5 and responsible people and fully competent to understand and protect the rights of M.N.. They  
6 have no interest adverse to that of the minor and are willing to act as guardians ad litem for the  
7 minor.  
8

9 A minor or an incompetent person who does not have a duly appointed representative  
10 may sue by a next friend or by a guardian ad litem. Fed.R.Civ.P. 17 (c)(2). "The court must  
11 appoint a guardian ad litem – or issue another appropriate order – to protect a minor or  
12 incompetent person who is unrepresented in an action." *Ibid.* Federal Rule of Civil Procedure  
13 17 does not contain a time constraint for filing a petition for guardian ad litem. *Dean v. City &*  
14 *County of San Francisco, 2006 WL 824336 (N.D. Cal. Mar. 28, 2006)*  
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1 Plaintiffs respectfully request that the Court appoint Eliseo Napoles and Maria Napoles  
2 as Guardians Ad Litem for Plaintiff M.N.

3 Date: August 26, 2020

HATFIELD & ASSOCIATES, LTD.

*Trevor J. Hatfield*

By: \_\_\_\_\_

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*Attorney for Plaintiffs*

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9 Plaintiffs Eliseo and Maria Napoles, mother and father of minor M.N., petition this Court to act as  
10 guardians ad litem in this action against the Clark County School District. Fed. R. Civ. P. 17 (c)(2) allows  
11 a minor or an incompetent person who does not have a duly appointed representative to sue by a next  
12 friend or by a guardian ad litem. Counsel represents that M.N. has no duly appointed representative  
13 and that Eliseo and Maria Napoles are M.N.'s natural parents, responsible people, fully competent to  
14 understand and protect the rights of M.N., and have no interest adverse to that of the minor. The  
15 decision to appoint a guardian ad litem under Rule 17(c) is "left to the sound discretion of the trial  
16 court." *Davis v. Walker*, 745 F.3d 1303, 1310 (9th Cir. 2014). The Court exercises its discretion here to  
17 appoint Eliseo and Maria Napoles as guardians ad litem of M.N. The motion at ECF No. 20 is therefore  
18 granted.  
19

16 **IT IS SO ORDERED**

17 **DATED:** 6:30 pm, October 21, 2020

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19 **BRENDA WEKSLER**

20 **UNITED STATES MAGISTRATE JUDGE**

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